

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
NO: 2:10-CR-0033-BR

UNITED STATES OF AMERICA

v.

DISHEA MARSEAN DAVIS

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ORDER

This matter is before the court on defendant's filing of 19 October 2015. (DE # 225.) In that filing, defendant requests that the court recommend that he be allowed to participate in the residential drug abuse treatment program. To the extent the filing could be deemed a motion to modify defendant's sentence, it is DENIED because the court does not have the authority to modify a sentence of imprisonment except under limited circumstances not applicable here. See 18 U.S.C. § 3582(b), (c). To the extent the court has the authority to make a post-sentencing recommendation to the Bureau of Prisons, see United States v. Sherrill, No. 3:10cr186-2, 2012 WL 752436, at \*1-2 (W.D.N.C. Mar. 8, 2012) (denying defendant's motion to modify his presentence report but making a non-binding recommendation to the BOP about consideration of defendant for the residential drug treatment program), defendant's request is DENIED as the information he now provides about his prior use of alcohol and marijuana is contrary to the information set forth in the presentence report and to which defendant did not object. (Compare Mot., DE # 225 ("[D]oing my review by the probation officer, I explain that I use weed on daily basis and alcohol for more than 10 years or more[.]"), with PSR, DE # 114, ¶ 34 ("Davis reported that he is an occasional consumer of alcohol. His first use of marijuana occurred at the age of 14 although he later advised that he was 18 years of age. He indicated his use of this

substance consisted of smoking ‘a blunt every two weeks at parties.’ He is not a frequent user of the substance . . . .”).)

This 7 December 2015.

A handwritten signature in dark ink, appearing to read "W. Earl Britt", written in a cursive style.

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W. Earl Britt  
Senior U.S. District Judge